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**Public Safety & Emergency Preparedness  
Committee**

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**ESSB 6251**

**Brief Description:** Regulating advertising of commercial sexual abuse of a minor.

**Sponsors:** Senate Committee on Judiciary (originally sponsored by Senators Kohl-Welles, Delvin, Eide, Chase, Pflug, Conway, Kline, Ranker, Stevens, Fraser, Regala, Nelson, Roach and Frockt).

**Brief Summary of Engrossed Substitute Bill**

- Creates the offense of Advertising Commercial Sexual Abuse of a Minor.

**Hearing Date:** 2/15/12

**Staff:** Sarah Koster (786-7303).

**Background:**

Chapter 9.68A of the Revised Code of Washington contains the following offenses relating to Commercial Sexual Abuse of a Minor: Commercial Sexual Abuse of a Minor, Promoting Commercial Sexual Abuse of a Minor, Promoting Travel for Commercial Sexual Abuse of a Minor, and Permitting Commercial Sexual Abuse of a Minor.

Under current law, a person is guilty of Commercial Sexual Abuse of a Minor if:

- (a) he or she pays a fee to a minor or a third person as compensation for a minor having engaged in sexual conduct with him or her;
- (b) he or she pays or agrees to pay a fee to a minor or a third person pursuant to an understanding that in return therefore such minor will engage in sexual conduct with him or her; or
- (c) he or she solicits, offers, or requests to engage in sexual conduct with a minor in return for a fee.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

A person is guilty of Promoting Commercial Sexual Abuse of a Minor if he or she knowingly advances commercial sexual abuse of a minor or profits from a minor engaged in sexual conduct.

A person commits the offense of Promoting Travel for Commercial Sexual Abuse of a Minor if he or she knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in what would be Commercial Sexual Abuse of a Minor or Promoting Commercial Sexual Abuse of a Minor, if occurring in this state.

A person is guilty of Permitting Commercial Sexual Abuse of a Minor if, having possession or control of premises which he or she knows are being used for the purpose of commercial sexual abuse of a minor, he or she fails without lawful excuse to make reasonable effort to halt or abate such use and to make a reasonable effort to notify law enforcement of such use.

### **Summary of Bill:**

A person commits the offense of Advertising Commercial Sexual Abuse of a Minor if he or she knowingly publishes, disseminates, or displays; or causes directly or indirectly to be published, disseminated, or displayed, any advertisement for a commercial sex act that is to take place in the State of Washington and that includes the depiction of a minor.

To be actionable, the advertisement must contain a depiction of a minor, meaning a photograph or reproduction of a photograph (including a print, negative, slide, digital image, motion picture, or videotape).

Advertising Commercial Sexual Abuse of a Minor is a class C felony.

### Defenses.

It is not a defense to a prosecution under this section that the defendant did not know the age of the minor.

However, it is a defense that the defendant made a reasonable bona fide attempt to ascertain the true age of the minor by requiring governmental identification of the minor depicted in the advertisement and did not rely solely on oral or written representations or the minor's appearance. This defense must be proved by a preponderance of the evidence. To invoke this defense, the defendant must produce a record of the identification used to verify the age of the person depicted in the advertisement.

**Appropriation:** None.

**Fiscal Note:** Requested on January 13, 2012.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.